

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF NEW MEXICO

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

FILED
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CLERK'S OFFICE, U.S. DISTRICT COURT
NEW MEXICO

Plaintiff,

v.

RAMON ARAGON, *et al.*,

Defendants.

69cv07941 JEC-ACE
U.S. DISTRICT COURT
NEW MEXICO

RIO CHAMA STREAM SYSTEM
Section 3: Rio Nutrias, Rio Cebolla
& Canjilon Creek

Subfile Nos. CHCB-001-0005
CHCB-003-0016
CHCB-003-0017
CHCB-007-0006

MOTION FOR DEFAULT JUDGMENT

COMES NOW the plaintiff, State of New Mexico, *ex rel.*, State Engineer, by and through his attorneys, and moves the Court to enter its order granting default judgment against the following defendants:

Mary Quintana	CHCB-001-0005
Mercedes Garcia	CHCB-003-0016
Roberto R. Garcia	CHCB-003-0016
Ignacita V. Rodella	CHCB-003-0017
Jimmy J. Garcia	CHCB-007-0006

and as grounds therefore plaintiff states:

1. The Court has jurisdiction over the defendants named above as shown by the waivers of service of summons filed with the Court on January 29, 2001. *See* Notice of Filing of Waivers of Service (6139) filed January 29, 2001.
2. The defendants named above are in default for failure to appear, answer, or otherwise

6580

defend in this cause as shown by the Clerk's Certificate of Default (6489) filed January 16, 2002.

3. A copy of the Clerk's Certificate of Default (6489) was mailed to the defendants named above on January 25, 2002. *See* Certificate of Mailing (6515) filed January 25, 2002.

3. A copy of the proposed default order incorporating the terms of the State's proposed Consent Orders in Subfiles CHCB-001-0005, CHCB-003-0016, CHCB-003-0017 and CHCB-007-0006 is attached hereto as Exhibit A.

WHEREFORE, the plaintiff State of New Mexico requests the Court to enter its order granting default judgment against the above-named defendants incorporating the terms of the State's proposed consent orders in these subfiles and in conformance with the Rio Cebolla August 11, 2000, Hydrographic Survey and Report.

DATED: February 26, 2002

Respectfully submitted,

Edward G. Newville
EDWARD G. NEWVILLE
Special Assistant Attorney General
Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 827-6150

CERTIFICATE OF SERVICE

I certify that the foregoing Motion for Default Judgment was mailed to the following persons on February 27, 2002.

Edward G. Newville
Edward G. Newville

Mary Quintana

Route 5, Box 217
Santa Fe, NM 87501

Mercedes Garcia
Robert Garcia
P.O. Box 193
Cebolla, NM 87518

Ignacita V. Rodella
P.O. Box 187
Alcalde, NM 87511

Jimmy J. Garcia
No. 39 County Rd. 5777
Farmington, NM 87410

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO *ex rel.*
State Engineer,

Plaintiff,
v.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941 JEC-ACE

RIO CHAMA STREAM SYSTEM
Rio Cebolla, Section 3

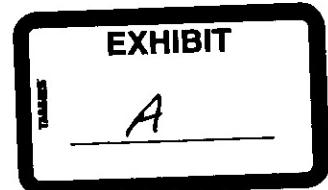
Subfile No(s).

**CHCB-001-0005
CHCB-003-0016
CHCB-003-0017
CHCB-007-0006**

ORDER GRANTING DEFAULT JUDGMENT

This matter coming on to be heard upon the motion of the Plaintiff, State of New Mexico, *ex rel.* State Engineer, for the entry of default judgment against the following defendants, and the Court having considered the record in this cause and being otherwise fully advised in the premises, finds:

1. The Court has jurisdiction of the parties and the subject matter herein.
2. The defendants have been legally served with process or have waived service of summons.
3. The defendants have failed to appear, answer, or otherwise defend in this cause, and are adjudged to be in default.
4. The State Engineer's amended hydrographic survey and report of the Rio Chama Stream System, Section 3, Rio Cebolla (August 11, 2000) relating to the defendants' water rights have been introduced into the record, and the same are hereby incorporated and made a part of this order.



MARY QUINTANA

Subfile No.: CHCB-001-0005

A. NO RIGHT (Surface Water Only)

Office of the State Engineer Files No(s) 0636, 2738

Priority: NONE

Source of Water: Surface waters of the Rito del Tanque, a tributary of the Rio Cebolla, a tributary of the Rio Chama.

Purpose of Use: NO RIGHT

Point of Diversion:

Ditch Name: ACEQUIA DEL PINAVETAL

Location X: 1,587,026 feet **Y:** 2,028,083 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Location and Amount of Acreage:

Section 13, Township 27N, Range 04E, N.M.P.M.

Pt. SE $\frac{1}{4}$	7.4 acres
Total	7.4 acres

As shown on the 2001 Hydrographic Survey Map CHCB- 1.

Amount of Water: NONE

B. NO RIGHT (Surface Water Only)

Office of the State Engineer Files No(s) 0636, 2738

Priority: NONE

Source of Water: Surface waters of the Rito del Tanque, a tributary of the Rio Cebolla, a tributary of the Rio Chama.

Purpose of Use: NO RIGHT

Point of Diversion:

Ditch Name: ACEQUIA DEL PINAVETAL

Location X: 1,587,026 feet **Y:** 2,028,083 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Location and Amount of Acreage:

Section 24, Township 27N, Range 04E, N.M.P.M.

Pt. NE $\frac{1}{4}$	14.3 acres
Total	14.3 acres

As shown on the 2001 Hydrographic Survey Map CHCB- 1.

Amount of Water: NONE

MERCEDES GARCIA
ROBERTO R. GARCIA

Subfile No.: CHCB-003-0016

A. NO RIGHT (Surface Water Only)

Office of the State Engineer Files No(s) NONE

Priority: NONE

Source of Water: Surface waters of the Rito del Tanque, a tributary of the Rio Cebolla, a tributary of the Rio Chama.

Purpose of Use: NO RIGHT

Point of Diversion:

Ditch Name: ACEQUIA MADRE DE CEBOLLA

Location X: 1,573,684 feet **Y:** 2,017,953 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Location and Amount of Acreage:

Section 34, Township 27N, Range 04E, N.M.P.M.

Pt. NW $\frac{1}{4}$	7.1 acres
Total	7.1 acres

As shown on the 2001 Hydrographic Survey Map CHCB- 3.

Amount of Water: NONE

IGNACITA V. RODELLA

Subfile No.: CHCB-003-0017

A. IRRIGATION (Surface Water Only)

Office of the State Engineer Files No(s) 0604

Priority: Reserved for future determination by court order entered July 25, 2000.

Source of Water: Surface waters of the Rito del Tanque, a tributary of the Rio Cebolla, a tributary of the Rio Chama.

Purpose of Use: IRRIGATION

Point of Diversion:

Ditch Name: ACEQUIA MADRE DE CEBOLLA

Location X: 1,573,684 feet **Y:** 2,017,953 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Location and Amount of Irrigated Acreage:

Section 35, Township 27N, Range 04E, N.M.P.M.

Pt. NW $\frac{1}{4}$	1.4 acres
Total	1.4 acres

As shown on the 2001 Hydrographic Survey Map CHCB- 3.

Amount of Water: Reserved for future determination by court order entered July 25, 2000.

JIMMY J. GARCIA

Subfile No.: CHCB-007-0006

A. NO RIGHT (Surface Water Only)

Office of the State Engineer Files No(s) NONE

Priority: NONE

Source of Water: Surface waters of the Rito Cienega Redonda, a tributary of the Rio Cebolla, a tributary of the Rio Chama.

Purpose of Use: NO RIGHT

Point of Diversion:

Ditch Name: RINCON BLANCA DITCH

Location X: 1,578,548 feet **Y:** 2,012,107 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Location and Amount of Acreage:

Section 10, Township 26N, Range 04E, N.M.P.M.

Pt. SE $\frac{1}{4}$	1.0 acres
Total	1.0 acres

As shown on the 2001 Hydrographic Survey Map CHCB- 7.

Amount of Water: NONE

IT IS, THEREFORE, ORDERED that the above-named defendants be and hereby are, adjudicated to have the water rights set out hereinabove, subject to the right of any other water rights claimant with standing to object prior to the entry of a final decree.

IT IS FURTHER ORDERED that the Defendants, his or her successors, representatives, heirs and assigns, are enjoined from any diversion or use of the public surface waters of the Rio Chama Stream System, Section 3, except in strict accordance with the rights set forth herein or in other orders of the Court.

UNITED STATES DISTRICT JUDGE

Recommended for approval:

SPECIAL MASTER